

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009SF3620
)	EEOC NO.: 21BA82302
PATRICIA MEFFORD)	ALS NO.: 09-0671
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Rozanne Ronen presiding, upon Patricia Mefford's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2009SF3620; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. The Petitioner filed a charge of discrimination with the Respondent on June 13, 2008. The Petitioner alleged in her charge that the Nashville Community High School District #99 ("Employer"), reduced her duties (Count A) and subjected her to harassment (Count B), in retaliation for having previously filed charges of discrimination, in violation of Section 6-101(A) of the Illinois Human Rights Act ("Act"). On October 20, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On November 21, 2009, the Petitioner filed a timely Request.
2. The Petitioner is employed as a secretary.
3. On April 16, 2008, the Employer removed a color printer from the Petitioner's office, and replaced it with a black and white printer. The color printer was placed in an area that made it accessible to other staff members, in addition to the Petitioner.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

4. In previous years, as part of her job duties as secretary, the Petitioner had provided assistance on the Employer's retirement committee. The retirement committee would plan an informal breakfast or lunch in honor of retiring teachers.
5. In May 2008, two teachers retired. The Employer's superintendent planned the retirement luncheon and did not request assistance from the Petitioner.
6. In her charge, the Petitioner alleged the Employer removed her color printer in April 2008, and reduced her duties in May 2008, in retaliation because the Petitioner had filed two charges of discrimination against the Employer with the Respondent: On February 19, 2008, the Petitioner filed Charge No. 2008SA2218, and on April 12, 2008, the Petitioner filed Charge No. 2008SF2864.
7. In her Request, the Petitioner describes how well she had previously performed her job duties; that she not begin having work issues until the Employer's superintendent arrived, and the Petitioner states the reduction of her job duties has caused her financial loss, emotional humiliation and daily harassment. The Petitioner also provides names of additional witnesses she believes should be contacted.
8. In its Response, the Respondent requests that the Commission sustain the dismissal of the Petitioner's charge for lack of substantial evidence. As to Count A, the Respondent found no substantial evidence of an adverse action since the Petitioner's "removal" from the retirement committee in 2008 did not cause the Petitioner to suffer any loss in wages or benefits. As to Count B, the Respondent argues the removal of the color printer from the Petitioner's office did not rise to the level of actionable harassment.

Conclusion

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747 (March 7, 1995), 1995 WL 793258 (Ill.Hum.Rts.Com.)

A *prima facie* case of retaliation requires evidence that the Petitioner engaged in protected activity, that the Employer thereafter took adverse action against the Petitioner, and that there is a causal connection between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill.App.3d 1027, 1035, 733 N.E.2d 410, 41 (3rd Dist). Further, actionable harassment occurs... "[w]hen the workplace is permeated with 'discriminatory intimidation, ridicule, and insult' that is 'sufficiently severe or pervasive to alter the conditions of the victim's employment and create an

abusive working environment..." Harris v. Forklift Systems, Inc., 510 U.S. 20, 14 S.Ct. 367, 371, 126 L.Ed2d 295 (1993) (*internal citations omitted*).

As to Count A, the Commission finds no substantial evidence of an adverse action. There is no substantial evidence the Petitioner suffered any loss in wages or change in position because one year, she was not asked to plan a retirement function for retiring teachers.

As to Count B, the Commission finds no substantial evidence the conduct alleged rises to the level of actionable harassment. The Petitioner's complaint of a color printer being removed from her office and replaced with a black and white printer hardly fits the definition of the type of conduct that would be sufficiently severe enough to alter the very terms and conditions of the Petitioner's employment.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Nashville Community High School District #99, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 26th day of May 2010.

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen